

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of:

No. 10F-BD152-SBD

3 **ENCOMPASS MORTGAGE LLC and**
4 **MANUEL L. CABALLERO, MEMBER**
5 77 West Chicago Street, Suite 6
6 Chandler, AZ 85225

**ORDER OF SUMMARY SUSPENSION
AND NOTICE OF OPPORTUNITY FOR
HEARING**

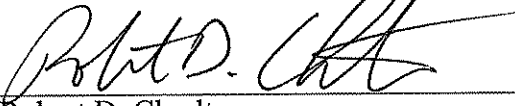
Respondents.

7 The Arizona Department of Financial Institutions (the "Department") hereby finds that
8 Encompass Mortgage LLC and Manuel L. Caballero, Member, ("Respondents") have violated the
9 provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the
10 public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-
11 1092.11(B).

12 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage broker
13 license held by Respondents. **This suspension is effective immediately.**

14 EFFECTIVE this 12th day of May, 2010.

15 Lauren W. Kingry
16 Superintendent of Financial Institutions

17 By 
18 Robert D. Charlton
19 Assistant Superintendent of Financial Institutions

20 PLEASE TAKE NOTICE that, pursuant to Titles 6 and 41 of the Arizona Revised Statutes
21 and Title 20, Chapter 4 of the Arizona Administrative Code ("A.A.C."), Respondents are hereby
22 notified that they are entitled to a hearing to contest the allegations set forth in this Order. The
23 Request for Hearing shall be filed with the Arizona Department of Financial Institutions (the
24 "Department") pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this Order and
25 shall identify with specificity the action or order for which review is sought in accordance with
26 A.R.S. § 41-1092.03(B).

1 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
2 her own behalf or by counsel. If Respondents is represented by counsel, the information required by
3 A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a Request
4 for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for hearing in
5 accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request reasonable**
6 **accommodations such as interpreters, alternative formats, or assistance with physical**
7 **accessibility.** Requests for special accommodations must be made as early as possible to allow time
8 to arrange the accommodations. If accommodations are required, call the Office of Administrative
9 Hearings at (602) 542-9826.

10 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
11 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled
12 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an
13 Informal Settlement Conference is requested, a person with the authority to act on behalf of the
14 Department will be present (the "Department Representative"). Please note that in requesting an
15 Informal Settlement Conference, Respondents waive any right to object to the participation of the
16 Department Representative in the final administrative decision of this matter, if it is not settled. In
17 addition, any written or oral statement made by Respondents at such informal settlement conference,
18 including written documentation created or expressed solely for purposes of settlement negotiations,
19 are inadmissible in any subsequent administrative hearing. (*See* A.R.S. § 41-1092.06 for rules
20 regarding informal settlement conferences.) Conversely, any written or oral statement made by
21 Respondents outside an Informal Settlement Conference is not barred from being admitted by the
22 Department in any subsequent hearing.

23 If Respondents do not request a hearing, this Order shall become final. If Respondents
24 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
25 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
26 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time

1 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
2 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-
3 132; (3) the suspension or revocation of Respondent's license pursuant to A.R.S. § 6-905; (4) an
4 order to pay restitution of any fees earned on loans made in violation of A.R.S. §§ 6-901, *et seq.*,
5 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or
6 proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§
7 6-123 and 6-131.

8 FINDINGS

9 1. Respondent Encompass Mortgage LLC is an Arizona Limited Liability Company
10 authorized to transact business in Arizona as a mortgage broker, license number MB 0907122,
11 within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of Encompass Mortgage LLC's business
12 is that of making, negotiating, or offering to make or negotiate loans secured by Arizona real
13 property, within the meaning of A.R.S. § 6-901(11).

14 2. Pursuant to A.R.S. § 6-903(J), Respondents are required to have a surety bond in the
15 amount set forth in A.R.S. § 6-903(K), or an alternative as set forth in A.R.S. § 6-903(M).

16 3. On December 26, 2008, the Department received notification from Accredited Surety
17 and Casualty Company, Inc. stating that Encompass Mortgage LLC's surety bond, number
18 10025093 in the amount of \$25,000.00, was to be cancelled effective January 26, 2009.

19 4. On December 29, 2008, the Department sent a letter to Respondents, to the address
20 on record with the Department, informing them of the bond cancellation.

21 5. On February 25, 2010, the Department contacted Accredited Surety and Casualty
22 Company, Inc. regarding the surety bond for Encompass Mortgage LLC. Accredited Surety and
23 Casualty Company, Inc. informed the Department that surety bond 10025093 was cancelled on
24 January 12, 2009.

25 6. Respondents failed to provide documentation regarding the reinstatement of their
26 bond or documentation of a new surety bond.

7. Respondents do not have the required surety bond in order to conduct business as a mortgage broker.

8. The conduct described above constitutes an immediate threat to the public health, safety, and welfare warranting immediate suspension of Respondent's mortgage broker license.

9. The conduct described above constitutes grounds for the suspension of Respondent's mortgage broker license.

LAW

1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules, and regulations relating to mortgage brokers.

2. By the conduct set forth in the Findings, Respondents have failed to maintain the surety bond required by A.R.S § 6-903(J).

3. Pursuant to A.R.S. §§ 6-905 and 41-1092.11(B), the conduct described above constitutes an immediate threat to the public health, safety and welfare warranting immediate suspension of Respondent's mortgage broker license.

4. Respondents have not conducted business in accordance with the law and have violated Title 6, Chapter 9, which constitutes grounds for the suspension or revocation of Respondent's license pursuant to A.R.S. § 6-905(A)(3).

5. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

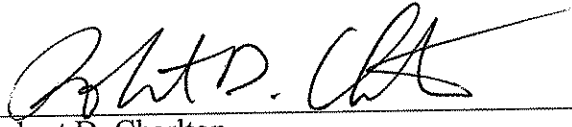
6. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

WHEREFORE, if Respondents do not request a hearing to contest the above Findings or produce evidence of a valid surety bond, Respondent's license shall remain suspended unless and

1 until reinstated or until said license expires by operation of law.

2
3 DATED this 12th day of May, 2010.

4 Lauren W. Kingry
5 Superintendent of Financial Institutions

6 By 
7 Robert D. Charlton
8 Assistant Superintendent of Financial Institutions

9 ORIGINAL of the foregoing filed this 12th
10 day of May, 2010, in the office of:

11 Lauren W. Kingry
12 Superintendent of Financial Institutions
13 Arizona Department of Financial Institutions
14 ATTN: Susan Longo
15 2910 N. 44th Street, Suite 310
16 Phoenix, AZ 85018

17 COPY mailed/delivered same date to:

18 Craig A. Raby
19 Assistant Attorney General
20 Attorney General's Office
21 1275 West Washington
22 Phoenix, AZ 85007

23 Richard Fergus, Licensing Division Manager
24 Robert D. Charlton, Assistant Superintendent
25 Arizona Department of Financial Institutions
26 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

AND COPY MAILED SAME DATE, by
Certified Mail, Return Receipt Requested to:

Encompass Mortgage LLC
Attention: Manuel L. Caballero
77 West Chicago Street, Suite 6
Chandler, AZ 85225
Respondent

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Manny Caballero, Statutory Agent
Encompass Mortgage LLC
1717 N. 77th St., #2
Scottsdale, AZ 85257

By: 